



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 02/02/2006 (Per: MDK)



Appendix A ... Part 02 of 04

The 2005 drafting file for LRB 05-4303/P4

has been transferred to the 2005 drafting file for

LRB 05s0511

The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

This cover sheet was added to rear of the original 2005 drafting file. The drafting file was then returned, intact, to its folder and filed.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-4303/P2

MDK:..:ch

O-NOTE

jd

Monday
11/23
p.m.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

LPS-Proof
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Gen

- 1 AN ACT ; relating to: public utility and cooperative association programs for
2 energy efficiency, renewable resources, and low-income assistance, and
3 granting rule-making authority. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version. ✓
For further information see the **state and local** fiscal estimate, which will be ✓
printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 4 SECTION 1. 16.957 (title) ✓ of the statutes is repealed and recreated to read:
5 16.957 (title) Low-income assistance. ✓
6 SECTION 2. 16.957 (1) (c) ✓ of the statutes is amended to read:
7 16.957 (1) (c) "Commitment to community program" ✓ means a program by a
8 municipal utility or retail electric cooperative for low-income assistance ✓ or an energy
9 conservation program by a municipal utility or retail electric cooperative.

1 SECTION 3. 16.957 (1) (d), (e) and (h) of the statutes are repealed.

2 SECTION 4. 16.957 (1) (o) 1m. of the statutes is amended to read:

3 16.957 (1) (o) 1m. The amount of the portion of the public benefits fee for fiscal

4 year 1999-2000 that is specified in sub. s. 16.957 (4) (c) 1., 1999 stats.

5 SECTION 5. 16.957 (1) (o) 3. of the statutes is amended to read:

6 16.957 (1) (o) 3. Fifty percent of the amount of public benefits fees that

7 municipal utilities and retail electric cooperatives are required to charge under sub.

8 s. 16.957 (5) (a), 1999 stats., in fiscal year 1999-2000. ~~The amount specified in this~~

9 ~~subdivision shall not be subject to the reduction under 1999 Wisconsin Act 9, section~~

10 ~~9101 (1zv) (c).~~

11 SECTION 6. 16.957 (1) (r) of the statutes is repealed.

****NOTE: The instructions include repealing s. 16.957 (2) (a), which I assume is a typo. Or did you intend to repeal s. 16.957 (2) (a) (intro.), which requires DOA to consult with the Council on Utility Public Benefits?

12 SECTION 7. 16.957 (2) (a) 4. of the statutes is amended to read:

13 16.957 (2) (a) 4. ~~Fifty percent of the~~ The moneys collected in public benefits
14 low-income assistance fees under sub. (5) (a).

15 SECTION 8. 16.957 (2) (b) of the statutes is repealed.

16 SECTION 9. 16.957 (2) (c) 1. of the statutes is amended to read:

17 16.957 (2) (c) 1. Eligibility requirements for low-income assistance under

18 programs established under par. (a). The rules shall prohibit a person who receives

19 low-income assistance from a municipal utility or retail electric cooperative under

20 a program specified in sub. (5) (d) 2. b. or 3. a. (b) 1. from receiving low-income

21 assistance under programs established under par. (a).

History: 1999 a. 9; 2001 a. 16, 30; 2003 a. 33.

22 SECTION 10. 16.957 (2) (c) 2. of the statutes is amended to read:

plain
The amount specified in this subdivision shall not be subject to the reduction under 1999 Wisconsin Act 9, section 9101 (1zv) (a).

1 16.957 (2) (c) 2. Requirements and procedures for applications for grants
2 awarded under programs established under par. (a) ~~or (b) 1.~~ ✓

3 **SECTION 11.** 16.957 (2) (c) 2m., 2n., ~~and 4.~~ ✓ of the statutes are repealed. ✓

4 **SECTION 12.** 16.957 (2) (d) 1. ~~of the statutes is amended to read:~~ ✓

5 16.957 (2) (d) 1. For each fiscal year ~~after fiscal year 1998-99,~~ ✓ determine the
6 low-income need target for that fiscal year.

7 **SECTION 13.** 16.957 (2) (d) 2. ~~of the statutes is repealed.~~ ✓

8 **SECTION 14.** 16.957 (2) (d) 3. ~~of the statutes is amended to read:~~ ✓

9 16.957 (2) (d) 3. Deposit all moneys received under sub. (4) (a) or (5) ~~(e) or (d)~~ ✓
10 (b) 2. in the utility public benefits fund.

11 **SECTION 15.** 16.957 (2) (d) 4. a. ~~of the statutes is amended to read:~~ ✓

12 16.957 (2) (d) 4. a. The expenses of the department, other state agencies, and
13 grant recipients in administering or participating in the programs under ~~pars.~~ ✓ par.
14 (a) and (b). ✓

15 **SECTION 16.** 16.957 (2) (d) 4. c. ~~of the statutes is repealed.~~ ✓

16 **SECTION 17.** 16.957 (3) (a) ~~of the statutes is renumbered 16.957 (3).~~ ✓

17 **SECTION 18.** 16.957 (3) (b) and (c) ~~of the statutes are repealed.~~ ✓

18 **SECTION 19.** 16.957 (4) (a) ~~of the statutes is amended to read:~~ ✓

19 16.957 (4) (a) (title) *Requirement to charge public benefits* ✓ low-income
20 assistance fees. Each electric utility, except for a municipal utility, shall charge each
21 customer a ~~public benefits~~ low-income assistance ✓ fee in an amount established in
22 rules promulgated by the department under par. (b). An electric utility, except for
23 a municipal utility, shall collect and pay the fees to the department in accordance
24 with the rules promulgated under par. (b). The ~~public benefits~~ low-income

1 assistance fees collected by an electric utility shall be considered trust funds of the
2 department and not income of the electric utility.

3 **SECTION 20.** 16.957 (4) (am) ^X of the statutes is amended to read:

4 16.957 (4) (am) *Electric bills.* An electric utility shall ~~include a public benefits~~
5 show the low-income assistance fee in the fixed charges for electricity as a separate
6 line in a customer's bill, identified as the "state low-income assistance fee", and shall
7 provide the customer with an annual statement that identifies the annual charges
8 for ~~public benefits~~ low-income assistance [✓] fees and describes the programs for which
9 fees are used.

10 **SECTION 21.** 16.957 (4) (b) (intro.) ^X of the statutes is amended to read:

11 16.957 (4) (b) *Rules.* (intro.) [✓] In consultation with the council, the department
12 shall promulgate rules that establish the amount of a ~~public benefits~~ low-income
13 assistance fee under par. (a). Fees established in rules under this paragraph may
14 vary by class of customer, but shall be uniform within each class, and shall satisfy
15 each of the following:

16 **SECTION 22.** 16.957 (4) (c) (title) ^X of the statutes is amended to read:

17 16.957 (4) (c) (title) *Amount of ~~public benefits~~ low-income assistance [✓] fees.*

18 **SECTION 23.** 16.957 (4) (c) 1. (intro.) of the statutes is amended to read:

19 16.957 (4) (c) 1. 'Low-income ~~funding~~ need target.' (intro.) [✓] In fiscal year
20 1999-2000, a portion of the ~~public benefits fee shall be an amount that, when added~~
21 ~~to 50% of the estimated public benefits fees charged by municipal utilities and retail~~
22 ~~electric cooperatives under sub. (5) (a) for that fiscal year, shall equal \$24,000,000.~~
23 In each fiscal year after fiscal year 1999-2000, a portion of the ~~public benefits,~~ [✓] the
24 low-income assistance [✓] fee shall be an amount that, when added to the sum of the

1 following shall equal the low-income need target for that fiscal year determined by
2 the department under sub. (2) (d) 1.:

3 **SECTION 24.** 16.957 (4) (c) 1. a. ~~of the statutes is amended to read:~~

4 16.957 (4) (c) 1. a. ~~Fifty percent of the estimated public benefits~~ The estimated
5 low-income assistance fees charged by municipal utilities and retail electric
6 cooperatives under sub. (5) (a) for that fiscal year.

7 **SECTION 25.** 16.957 (4) (c) 1. c. and 2. ~~of the statutes are repealed.~~

8 **SECTION 26.** 16.957 (4) (c) 3. ~~of the statutes is amended to read:~~

9 16.957 (4) (c) 3. 'Limitation on electric bill increases.' For the period beginning
10 on October 29, 1999, and ending on June 30, 2008, the total increase in a customer's
11 electric bills that is based on the requirement to pay public benefits fees under s.
12 16.957 (4) (a), 2003 stats., and low-income assistance fees, including any increase
13 resulting from an electric utility's compliance with this section, may not exceed 3%
14 of the total of every other charge for which the customer is billed for that period or
15 \$750 per month, whichever is less.

****NOTE: See the reference I added to public benefits fees paid under current law.

16 **SECTION 27.** 16.957 (5) (a) ~~of the statutes is amended to read:~~

17 16.957 (5) (a) *Requirement to charge* ~~public benefits~~ low-income assistance fees.

18 Each retail electric cooperative and municipal utility shall charge a monthly ~~public~~
19 ~~benefits~~ low-income assistance fee to each customer or member in an amount that
20 is sufficient for the retail electric cooperative or municipal utility to collect an annual
21 average of \$16 ~~\$8~~ \$8 per meter. A retail electric cooperative or municipal utility may
22 determine the amount that a particular class of customers or members is required
23 to pay under this paragraph and may charge different fees to different classes of
24 customers or members.

1 **SECTION 28.** 16.957 (5) (am) of the statutes is amended to read:

2 16.957 (5) (am) ~~Public benefits~~ Low-income assistance fee restriction.

3 Notwithstanding par. (a), for the period beginning on October 29, 1999, and ending
4 on June 30, 2008, the total increase in a customer's or member's electric bills that is
5 based on the requirement to pay public benefits fees for low-income assistance under
6 s. 16.957 (5) (a), 2003 stats., and low-income assistance fees, including any increase
7 resulting from a retail electric cooperative's or municipal utility's compliance with
8 this section, may not exceed ~~3%~~ 1.5% ^{2 percent} of the total of every other charge for which the
9 member or customer is billed for that period or ~~\$750~~ \$375 per month, whichever is
10 less.

 ****NOTE: See the reference I added to public benefits fees paid under current law
 for low-income assistance. See also proposed s. 196.374 (7) (a) 2., which refers to public
 benefits fees paid under current law for programs other than for low-income assistance.

11 **SECTION 29.** 16.957 (5) (b) of the statutes is repealed and recreated to read:

12 16.957 (5) (b) Commitment to community programs. 1. Except as provided in
13 subd. 2., in each fiscal year, each retail electric cooperative and municipal utility
14 shall spend on commitment to community programs an amount equal to the fees that
15 the cooperative or utility charges under par. (a) in that fiscal year.

 ****NOTE: I made changes to the above. Are my changes okay?

16 2. No later than October 1, 2007, and no later than every 3rd year after that
17 date, each municipal utility or retail electric cooperative shall notify the department
18 whether the utility or cooperative has elected to contribute the fees that the utility
19 or cooperative charges under par. (a) to the programs established under sub. (2) (a)
20 in each fiscal year of the 3-year period for which the utility or cooperative has made
21 the election. If a municipal utility or retail electric cooperative elects to contribute
22 to the programs established under sub. (2) (a), the utility or cooperative shall pay the

1 low-income assistance fees that the utility or cooperative collects under par. (a) to
2 the department in each fiscal year of the 3-year period for which the utility or
3 cooperative has made the election.

****NOTE: I changed the above date from 2006 to 2007.

4 SECTION 30. 16.957 (5) (c) and (d) of the statutes are repealed.

5 SECTION 31. 16.957 (5) (e) (intro.) and 1. of the statutes are consolidated,
6 renumbered 16.957 (5) (e) and amended to read:

7 16.957 (5) (e) *Wholesale supplier credit.* If a wholesale supplier has established
8 a commitment to community program for low-income assistance or an energy
9 conservation program, a municipal utility or retail electric cooperative that is a
10 customer or member of the wholesale supplier may do any of the following: 1. Include
11 include an amount equal to the product of the municipal utility's or retail electric
12 cooperative's wholesale supply percentage and the amount that the wholesale
13 supplier has spent on low-income assistance the commitment to community
14 program in a fiscal year in calculating the amount that the municipal utility or retail
15 electric cooperative has spent on low-income assistance commitment to community
16 programs in that fiscal year under par. (d) 2. b. or 3. a. (b) 1.

****NOTE: I substituted "commitment to community programs" for the reference to
low-income assistance.

17 SECTION 32. 16.957 (5) (e) 2. of the statutes is repealed.

18 SECTION 33. 16.957 (5) (f) of the statutes is amended to read:

19 16.957 (5) (f) *Joint programs.* Municipal utilities or retail electric cooperatives
20 may establish joint commitment to community programs, except that each municipal
21 utility or retail electric cooperative that participates in a joint program is required
22 to comply with the spending requirements under par. (d) (b) 1.

23 SECTION 34. 16.957 (5) (g) 1. (intro.) of the statutes is amended to read:

1 16.957 (5) (g) 1. (intro.) For each fiscal year, each municipal utility and retail
2 electric cooperative that ~~does not pay 100% of the public benefits fee~~ spends the
3 low-income assistance fees that it the utility or cooperative charges under par. (a)
4 ~~to the department under par. (c)~~ shall file a report with the department on
5 commitment to community programs under par. (b) 1. shall provide for an
6 independent audit of its programs and submit a report to the department that
7 describes each of the following:

8 **SECTION 35.** 16.957 (5) (g) 1. a. of the statutes is amended to read:

9 16.957 (5) (g) 1. a. An accounting of ~~public benefits~~ low-income assistance fees
10 charged to customers or members under par. (a) in the fiscal year and expenditures
11 on commitment to community programs under par. (d) (b) 1., including any amounts
12 included in the municipal utility's or retail electric cooperative's calculations under
13 par. (e).

14 **SECTION 36.** 16.957 (5) (g) 2. of the statutes is amended to read:

15 16.957 (5) (g) 2. The department shall require that municipal utilities and
16 retail electric cooperatives file reports under subd. 1. electronically, in a format that
17 allows for tabulation, comparison, and other analysis of the reports. The department
18 shall maintain reports filed under subd. 1. for at least 6 years.

19 **SECTION 37.** 20.505 (3) (s) of the statutes is amended to read:

20 20.505 (3) (s) *Energy conservation and efficiency and renewable resource*
21 *grants.* From the utility public benefits fund, a sum sufficient ~~for energy~~
22 ~~conservation and efficiency and renewable resource grants under s. 16.957 (2) (b) 1.~~
23 and to make the transfer to the air quality improvement fund under s. 16.958 (2) (a).

History: 1971 c. 108, 125, 215; 1971 c. 270 s. 104; 1973 c. 90 and supp., 157, 305; 1975 c. 39 ss. 179 to 184f, 735 (5); 1975 Ex. Order No. 24; 1975 c. 224, 397; 1977 c. 29; 1977 c. 196 ss. 70, 131; 1977 c. 377 s. 30; 1977 c. 418 s. 929 (1), (55); 1979 c. 32 s. 92 (5); 1979 c. 34, 175, 221; 1979 c. 355 s. 241; 1979 c. 361; 1981 c. 20 ss. 400b to 421, 2202 (57) (b); 1981 c. 44 s. 3; 1981 c. 62, 121; 1981 c. 202 s. 23; 1981 c. 314, 374, 391; 1983 a. 27 ss. 439 to 456, 2202 (1); 1983 a. 36, 187, 282, 371, 393; 1985 a. 29, 31, 57, 120, 296, 297, 332; 1987 a. 27 ss. 296n, 296q, 297b, 297d, 299a to 299r, 300a, 301a, 418 to 432; 1987 a. 142, 147, 342, 399; 1989 a. 31, 56, 107, 122, 336, 339, 345, 366; 1991 a. 39 s. 469, 593q to 614; 1991 a. 105, 269, 315; 1993 a. 16 ss. 470g, 470m, 470r, 488 to 506m; 1993 a. 33, 75, 193, 349, 358, 374, 414, 437, 477, 491; 1995 a. 27, 56, 201, 216.

225, 227, 370, 403; 1997 a. 3; 1997 a. 27 ss. 199, 227 to 229m, 233, 666g to 692, 9456 (3m); 1997 a. 237, 283; 1999 a. 5; 1999 a. 9 ss. 508 to 587d, 9401 (2zt), (2zu); 1999 a. 24, 52, 105, 113, 148, 185; 2001 a. 16 ss. 684d, 685d, 800 to 905; 2001 a. 104 ss. 21, 141; 2001 a. 109; 2003 a. 33 ss. 364d, 365d, 369d, 370d, 374d, 376d, 378d, 380d to 384d, 567 to 615f, 639, 640, 642d to 644, 2811 to 2813; 2003 a. 48 ss. 10, 11; 2003 a. 84; 2003 a. 139 ss. 9 to 12; 2003 a. 206 s. 23; 2003 a. 326; 2005 a. 25 ss. 389 to 429m, 2493, 2494, 2495, 9401, 9409.

***NOTE: Should the program under s. 16.958 be repealed? If so, the above appropriation should also be repealed.

1 **SECTION 38.** 25.96 of the statutes is amended to read:

2 **25.96 Utility public benefits fund.** There is established a separate
3 nonlapsible trust fund designated as the utility public benefits fund, consisting of
4 deposits by the public service commission under s. 196.374 (3), public benefits
5 low-income assistance fees received under s. 16.957 (4) (a) and (5) (e) and (d) and
6 ~~contributions received under s. 16.957 (2) (c) 4. and (d) 2.~~ (b) 2.

History: 1999 a. 9.

7 **SECTION 39.** 76.28 (1) (d) of the statutes is amended to read:

8 76.28 (1) (d) "Gross revenues" for a light, heat and power company other than
9 a qualified wholesale electric company or a transmission company means total
10 environmental control charges paid to the company under a financing order issued
11 under s. 196.027 (2) and total operating revenues as reported to the public service
12 commission except revenues for interdepartmental sales and for interdepartmental
13 rents as reported to the public service commission and deductions from the sales and
14 use tax under s. 77.61 (4), except that the company may subtract from revenues
15 either the actual cost of power purchased for resale, as reported to the public service
16 commission, by a light, heat and power company, except a municipal light, heat and
17 power company, that purchases under federal or state approved wholesale rates
18 more than 50% of its electric power from a person other than an affiliated interest,
19 as defined in s. 196.52 (1), if the revenue from that purchased electric power is
20 included in the seller's gross revenues or the following percentages of the actual cost
21 of power purchased for resale, as reported to the public service commission, by a
22 light, heat and power company, except a municipal light, heat and power company

1 that purchases more than 90% of its power and that has less than \$50,000,000 of
2 gross revenues: 10% for the fee assessed on May 1, 1988, 30% for the fee assessed on
3 May 1, 1989, and 50% for the fee assessed on May 1, 1990, and thereafter. For a
4 qualified wholesale electric company, "gross revenues" means total business
5 revenues from those businesses included under par. (e) 1. to 4. For a transmission
6 company, "gross revenues" means total operating revenues as reported to the public
7 service commission, except revenues for transmission service that is provided to a
8 public utility that is subject to the license fee under sub. (2) (d), to a public utility, as
9 defined in s. 196.01 (5), or to a cooperative association organized under ch. 185 for
10 the purpose of providing electricity to its members only. For an electric utility, as
11 defined in s. 16.957 (1) (g), "gross revenues" does not include ~~public benefits~~
12 low-income assistance fees collected by the electric utility under s. 16.957 (4) (a) or
13 (5) (a). For a generator public utility, "gross revenues" does not include any grants
14 awarded to the generator public utility under s. 16.958 (2) (b). For a wholesale
15 supplier, as defined in s. 16.957 (1) (w), "gross revenues" does not include any ~~public~~
16 benefits low-income assistance fees that are received from a municipal utility or
17 retail electric cooperative or under a joint program established under s. 16.957 (5)
18 (f). For a municipal utility, "gross revenues" does not include ~~public benefits~~
19 low-income assistance fees received by the municipal utility from a municipal utility
20 or retail electric cooperative under a joint program established under s. 16.957 (5)
21 (f).

History: 1983 a. 27, 405; 1985 a. 29, 120; 1987 a. 27; 1993 a. 205; 1995 a. 27, 351; 1997 a. 35; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 107; 2003 a. 33, 152.

22 **SECTION 40. 76.48 (1g) (d) of the statutes is amended to read:**

23 76.48 (1g) (d) "Gross revenues" means total operating revenues, except
24 revenues for interdepartmental sales and for interdepartmental rents, less

1 deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric
2 cooperative that purchases more than 50% of the power it sells, less the actual cost
3 of power purchased for resale by an electric cooperative, if the revenue from that
4 purchased electric power is included in the seller's gross revenues or if the electric
5 cooperative purchased more than 50% of the power it sold in the year prior to
6 January 1, 1988, from a seller located outside this state. For an electric cooperative,
7 "gross revenues" does not include grants awarded to the electric cooperative under
8 s. 16.958 (2) (b). For a retail electric cooperative, "gross revenues" does not include
9 ~~public benefits~~ low-income assistance fees collected by the retail electric cooperative
10 under s. 16.957 (5) (a), ~~public benefits~~ low-income assistance fees received by the
11 retail electric cooperative from a retail electric cooperative or municipal utility under
12 a joint program established under s. 16.957 (5) (f). For a wholesale supplier, as
13 defined in s. 16.957 (1) (w), "gross revenues" does not include any ~~public benefits~~
14 low-income assistance fees that are received from a municipal utility, as defined in
15 s. 16.957 (1) (q), or retail electric cooperative or under a joint program established
16 under s. 16.957 (5) (f).

History: 1971 c. 125, 215; 1973 c. 12; 1975 c. 39, 224; 1977 c. 29, 142, 272, 418; 1979 c. 110 s. 60 (11), (13); 1979 c. 207; 1981 c. 20; 1983 a. 27; 1985 a. 120; 1987 a. 27, 399; 1991 a. 39; 1999 a. 9; 2001 a. 16, 107; 2003 a. 33.

17 **SECTION 41.** 77.54 (44) of the statutes is amended to read:

18 77.54 (44) The gross receipts from the collection of ~~public benefits~~ low-income
19 assistance fees that are charged under s. 16.957 (4) (a) or (5) (a).

History: 1971 c. 64, 154, 215, 311; 1973 c. 90, 156, 240; 1975 c. 39, 96, 102, 146, 200; 1977 c. 29; 1977 c. 83 ss. 13, 26; 1977 c. 250, 368, 418; 1979 c. 1, 34, 87, 174; 1981 c. 20; 1981 c. 79 s. 18; 1981 c. 96 s. 67; 1981 c. 264; 1981 c. 282 s. 47; 1981 c. 317; 1983 a. 27 ss. 1284d to 1284np, 2202 (38); 1983 a. 189 ss. 101, 106, 329 (5), (12), (13); 1983 a. 192, 287, 405, 426, 498, 510, 538, 544; 1985 a. 29, 149, 332; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31, 238, 270, 335, 359; 1991 a. 37, 39, 269, 316; 1993 a. 16, 263, 332; 1995 a. 27, 125, 225, 227; 1997 a. 27, 35, 41, 184, 237, 291; 1999 a. 9, 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 103, 109; 2003 a. 99, 128; 2005 a. 25.

20 **SECTION 42.** 196.025 (1) (title) of the statutes is created to read:

21 196.025 (1) (title) STATE ENERGY POLICY.

22 **SECTION 43.** 196.025 (1) of the statutes is renumbered 196.025 (1) (a) and
23 amended to read:

1 196.025 (1) (a) *Consideration of energy priorities.* ✓ To Except as provided in
2 pars. (b) to (d). ✓, to the extent cost-effective, technically feasible and environmentally
3 sound, the commission shall implement the priorities under s. 1.12 (4) in making all
4 energy-related decisions and orders, including advance plan, rate setting and
5 rule-making orders.

6 **SECTION 44.** 196.025 (1) (b) to (d) ✓ of the statutes are created to read:

7 196.025 (1) (b) *Energy conservation and efficiency.* ✓ In a proceeding regarding
8 a request by a utility under s. 196.49, ✓ 196.491 (3), ✓ or 196.80 ✓ for authority to acquire,
9 construct, install, or operate any plant, equipment, property, or facility, the
10 commission ✓ is not required to evaluate energy conservation and efficiency as an
11 element of or alternative to the proposal if all of the following apply: ✓

12 1. The commission ✓ has fulfilled all of its duties and responsibilities under s.
13 196.374. ✓

14 2. The utility has satisfied the requirements of s. 196.374 ✓ for energy efficiency
15 programs for that year, as specified in s. 196.374 (8). ✓

16 (c) *Renewable resources.* ✓ 1. In this ✓ paragraph, “renewable resource” has the
17 meaning given in s. 196.378 (1) (h) ✓ and includes a resource with a capacity of ✓ 60
18 megawatts or more that derives electricity from hydroelectric power.

 ****NOTE: Should the definition in proposed s. 196.374 (1) (j) ✓ be used instead?

19 2. In a proceeding regarding a request by a utility under s. 196.49, ✓ 196.491 (3),
20 or 196.80 ✓ for authority to acquire, construct, install, or operate ✓ any plant, equipment,
21 property, or facility, the commission is not required to consider renewable resources
22 as an element of or alternative to the proposal if all of the following apply: ✓

23 a. The commission has fulfilled all of its duties and responsibilities under s.
24 196.378. ✓

1 b. The utility is in compliance with the requirements of s. 196.378 (2) for that
2 year.

3 (d) *Transmission facilities.* In a proceeding regarding a request by a utility
4 under s. 196.49 or 196.491 (3) to construct, install, or operate an electric transmission
5 facility or associated equipment, the commission is not required to find that approval
6 of the proposal would implement the policies under s. 1.12 (2) to (5).

7 **SECTION 45.** 196.025 (1m) (title) of the statutes is created to read:

8 196.025 (1m) (title) TRANSMISSION CORRIDORS.

 ****NOTE: If you want to create titles for the paragraphs in s. 196.025 (1), then titles
 must be created for every other subsection in s. 196.025.

9 **SECTION 46.** 196.025 (2) (title) of the statutes is created to read:

10 196.025 (2) (title) ENVIRONMENTAL IMPACTS.

11 **SECTION 47.** 196.025 (2m) (title) of the statutes is created to read:

12 196.025 (2m) (title) COORDINATION WITH DEPARTMENT OF NATURAL RESOURCES.

13 **SECTION 48.** 196.025 (3) (title) of the statutes is created to read:

14 196.025 (3) (title) RELIABILITY REPORTS.

15 **SECTION 49.** 196.025 (4) (title) of the statutes is created to read:

16 196.025 (4) (title) SMALL-SCALE GENERATION INCENTIVES.

17 **SECTION 50.** 196.025 (5) (title) of the statutes is created to read:

18 196.025 (5) (title) MARKET POWER STUDY.

19 **SECTION 51.** 196.374 of the statutes is repealed and recreated to read:

20 **196.374 Energy efficiency and renewable resource programs. (1)**

21 **DEFINITIONS.** In this section:

22 (a) "Agricultural producer" means a person engaged in an agricultural activity,
23 as defined in s. 101.10 (1) (a).

***NOTE: I created the above term for purposes of proposed s. 196.374 (2) (a) 2. b.

(b) “Commitment to community program” means an energy efficiency or load management program by a municipal energy utility or retail electric cooperative.

(c) “Customer application of renewable resources” means the generation of electricity from renewable resources that takes place on the premises of a customer of an energy utility or municipal utility or a member of a retail electric cooperative.

(d) “Energy efficiency program” means a program for reducing the usage or increasing the efficiency of the usage of natural gas or electricity.

(e) “Energy utility” means an investor-owned electric or natural gas public utility.

***NOTE: I added a definition for “municipal utility” below. It’s clear that a municipal utility is not an investor-owned utility, right?

(f) “Load management program” means a program to allow an energy utility, municipal utility, or wholesale electric cooperative, as defined in s. 16.957 (1) (v), to control or manage daily or seasonal customer demand associated with equipment or devices used by customers or members.

***NOTE: I added references to municipal utilities and wholesale electric cooperatives to the above. Proposed s. 196.374 (7) (c) refers to a “wholesale supplier” that establishes a load management program and “wholesale supplier” can include a municipal utility or wholesale electric cooperative.

(g) “Local unit of government” has the meaning given in s. 23.24 (4) (a) 1.

(h) “Municipal utility” has the meaning given in s. 16.957 (1) (q).

(i) “Ordered program” means any of the following:

1. An energy efficiency or renewable resource program that an energy utility conducted under s. 196.374, 1997 stats., and continued to conduct under a commission order in effect on the effective date of this subdivision [revisor inserts date].

1 2. A shared savings program[✓] that an energy utility conducted prior to October
2 29, 1999[✓], and continued to conduct under a commission order in effect on the effective
3 date of this subdivision[✓] [revisor inserts date].

4 3. An energy efficiency or renewable resource program that an energy utility
5 conducted under a commission order issued on or after October 29, 1999, and before
6 the effective date of this subdivision[✓] [revisor inserts date].

7 (j) “Renewable resource”[✓] means a resource that derives energy from any source
8 other than coal, petroleum products, nuclear power or, except as used in a fuel cell,
9 natural gas. “Renewable resource” includes resources deriving energy from any of
10 the following:[✓]

11 1. Solar energy.

12 2. Wind power.

13 3. Water power.

14 4. Biomass.

15 5. Geothermal technology.

16 6. Tidal or wave action.

17 7. Fuel cell technology that does not use coal or petroleum products as fuel.

18 (k) “Renewable resource program”[✓] means a program for encouraging the
19 development or use of customer applications of renewable resources, including
20 educating customers or members about renewable resources, encouraging
21 customers or members to use renewable resources, and encouraging the transfer of
22 new or emerging technologies from research, development, and demonstration to
23 commercial implementation.

24 (L) “Retail electric cooperative”[✓] has the meaning given in s. 16.957 (1) (t).[✓]

1 (m) "Shared savings program" means a program under which an energy utility
2 finances the installation of energy efficiency improvements or renewable resources
3 systems in the facilities of a customer and recovers the cost of the installation from
4 a portion of the cost savings realized by the customer as a result of the installation.

5 (n) "Wholesale supplier" has the meaning given in s. 16.957 (1) (w).

6 (o) "Wholesale supply percentage" has the meaning given in s. 16.957 (1) (x).

7 (2) ENERGY EFFICIENCY AND RENEWABLE RESOURCE PROGRAMS. (a) *Statewide*
8 *programs.* 1. The energy utilities in this state shall collectively establish and fund
9 statewide energy efficiency and renewable resource programs. The energy utilities
10 shall contract, on the basis of competitive bids, with one or more persons to
11 administer the programs. The utilities may not execute a contract under this
12 subdivision unless the commission has approved the contract. Except as provided
13 in par. (b), each energy utility shall spend the amount determined by the commission
14 for that utility under sub. (3) (b) 3. to fund statewide energy efficiency and renewable
15 resource programs.

16 2. The purpose of the programs under this paragraph shall be to help achieve
17 environmentally sound and adequate energy supplies at reasonable cost, consistent
18 with the commission's responsibilities under s. 196.025 (1) (a) and the utilities'
19 obligations under this chapter. The programs shall include, at a minimum, all of the
20 following:

21 a. Components to address the energy needs of residential, commercial,
22 agricultural, institutional, and industrial energy users.

23 b. Components to reduce the energy costs incurred by local units of government
24 and agricultural producers, including programs to increase the efficiency of energy
25 use by local units of government and agricultural producers and programs to

1 promote and provide technical and financial assistance for the installation of
2 renewable resources at buildings and other facilities of local units of government and
3 agricultural producers. The commission shall ensure that not less than \$29 million^{2,000,000}
4 from the moneys utilities are required to spend under sub. (3) (b) 2. is spent on
5 programs under this subdivision except that, if the commission determines that the
6 full amount cannot be spent on cost-effective programs for local units of government
7 and agricultural producers, the commission shall ensure that any surplus funds be
8 spent on programs to serve commercial and industrial customers.

9 c. Initiatives and market strategies that address the needs of individuals or
10 businesses facing the most significant barriers to creation of or participation in
11 markets for energy efficient products that the individual or business manufactures
12 or sells or energy efficiency services that the individual or business provides.

13 3. The commission may not require an energy utility to administer or fund any
14 energy efficiency or renewable resource program that is in addition to the programs
15 required under subd. 1. or any ordered program of the utility. This subdivision does
16 not limit the authority of the commission to enforce an energy utility's obligations
17 under s. 196.378.

18 (b) *Utility-administered programs.* 1. An energy utility may, with commission
19 approval, administer or fund one or more energy efficiency programs that is limited
20 to large commercial, industrial, institutional, or agricultural customers in its service
21 territory. An energy utility shall pay for a program under this subdivision with a
22 portion of the amount required under sub. (3) (b) 3., as approved by the commission.
23 An energy utility may request, and the commission may approve, to modify or
24 discontinue, in whole or in part, a program the energy utility administers or funds
25 under this subdivision. An energy utility shall request approval to establish, modify,

1 or discontinue a program under this subdivision as part of a proceeding under sub.
2 (3) (b). The commission may not order an energy utility to administer or fund a
3 program under this subdivision.

****NOTE: Can "agricultural producer" be substituted for "agricultural customer"?
Alternatively, you could create a definition for "agricultural customer" and use that term,
instead of "agricultural producer", in proposed 196.374 (2) (a) 2. b.

****NOTE: The above refers to energy efficiency, but not renewable resource,
programs. Is that intentional?

4 2. The commission may, by order and only at the request of an energy utility,
5 authorize the energy utility to administer or fund an energy efficiency or renewable
6 resource program that is in addition to the programs required under par. (a) or
7 authorized under subd. 1. An energy utility may request, and the commission may
8 approve, to modify or discontinue, in whole or in part, a program the energy utility
9 administers or funds under this subdivision. An energy utility shall request
10 approval to establish, modify, or discontinue a program under this subdivision as
11 part of a proceeding under sub. (3) (b).

****NOTE: I added "only" in the phrase "only at the request of an energy utility"

12 3. An energy utility that conducts or funds an ordered program may request,
13 and the commission may approve, to modify or discontinue, in whole or in part, the
14 ordered program. An energy utility shall request the modification or discontinuation
15 of an ordered program as part of the first proceeding under sub. (3) (b).

16 (3) COMMISSION DUTIES. (a) *In general.* The commission shall have oversight
17 of programs under sub. (2). The commission shall maximize coordination of program
18 delivery, including coordination between programs under subs. (2) (a) 1. and (b) 1.
19 and 2. and (7), ordered programs, low-income weatherization programs under s.
20 16.957, and other energy efficiency or renewable resource programs.

****NOTE: I reorganized this subsection.

****NOTE: Is it okay to single out weatherization programs under s. 16.957?

1 (b) *Programs and funding.* At least every ²⁴four years, after notice and
2 opportunity to be heard, the commission shall, by order, do all of the following:

3 1. Evaluate the energy efficiency and renewable resource programs under sub.

4 ✓(2) (a) 1. and (b) 1. and ordered programs and set or revise goals, priorities, and
5 measurable targets for the programs. The commission shall give priority to
6 programs that moderate the growth in electric and natural gas demand and usage
7 by facilitating markets and assisting market providers to achieve higher levels of
8 energy efficiency, promoting energy reliability and adequacy, avoiding adverse
9 environmental impacts from the use of energy, and promoting rural economic
10 development. ✓

****NOTE: The above refers to programs under sub. (2) (b) 1. , but not sub. ✓(2) (b)
2. Is that okay?

11 2. Establish the required level of total funding for energy efficiency and
12 renewable resource programs under sub. (2) (a) 1. and (b) 1. The level of total funding
13 shall include the amount anticipated to be spent under ordered ✓programs. The
14 commission shall provide a reasonably consistent and adequate multi²year budget
15 that promotes program improvement and stability, and maturation of programs and
16 delivery resources. In establishing the required level of total funding, ✓the
17 commission shall consider all of the following:

****NOTE: What does "maturation" of programs and delivery resources mean? How
do delivery resources mature? Can this be clarified?

18 a. Studies of potential energy-efficiency ✓improvements that could be made in
19 this state, including at least one study completed within the preceding 2 ✓years that
20 provides a prospective ✓5-year and 10-year estimate of such potential that is
21 cost-effective.

move
(*) (*) (*) (*) NOTE: Should the above also refer letter
refer to sub. (2) (b) 2. ?

1 b. The potential short-term and long-term impacts on electric and natural gas
2 rates and alternative means to mitigate such impacts.

3 c. The impact on the continuation and effectiveness of existing energy efficiency
4 and renewable resource programs, and the ability of such programs to capture
5 time-limited and cost-effective energy-efficiency opportunities.

6 d. The impact on the reliability and adequacy of systems for the generation and
7 transmission of electricity and the transmission of natural gas.

8 e. Societal impacts.

9 f. The potential for displacing or delaying construction of electric generating
10 plants and transmission lines.

11 g. Economic impacts that are likely to accrue from reducing state and private
12 expenditures on coal, natural gas, fuel oil, and other fossil fuel imports.

13 h. Any other relevant factors.

14 3. Establish the portion of the amount established under subd. 2. that each
15 energy utility must spend for energy efficiency and renewable resource programs.
16 The commission shall credit against the amount that an energy utility is required
17 to spend any amount the commission authorizes the utility to spend for ordered
18 programs.

19 (c) *Reviews and approvals.* The commission shall do all of the following:

20 1. Review and approve contracts under sub. (2) (a) 1. between the energy
21 utilities and program administrators.

22 2. Review requests under sub. (2) (b). The commission may condition its
23 approval of a request under sub. (2) (b) as necessary to protect the public interest.

24 The commission shall approve a request under sub. (2) (b) 1. or 2. if the commission

1 determines that a proposed energy efficiency program is in the public interest and
2 satisfies all of the following:

****NOTE: Subsection (2) (b) 1. [✓]is references energy efficiency programs and sub. (2)
(b) 2. references both energy efficiency and renewable resource programs. The last
sentence of the above refers only to energy efficiency programs. Are these distinctions
intentional?

3 a. The energy efficiency program [✓]has specific savings targets and performance
4 goals approved by the commission.

5 b. The energy efficiency program [✓]is subject to independent evaluation by the
6 commission.

****NOTE: What is "independent" evaluation? Does this mean that the PSC must
arrange for a 3rd party (i.e., someone other than the PSC) to do the evaluation?

7 c. Services under the energy efficiency program are provided through
8 [✓]3rd-party market providers on a [✓]nondiscriminatory basis.

9 (d) *Audits.* [✓]Annually, the commission shall contract with one or more
10 independent auditors to prepare a financial and performance audit of the programs
11 specified in [✓]par. (b) 1. The purpose of the performance audit shall be to evaluate the
12 programs and measure the performance of the programs against the goals and
13 targets set by the commission under par. (b) 1. [✓]

14 (e) *Reports.* [✓]Annually, the commission shall prepare and post on the
15 commission's Internet [✓]site a report and submit a summary of not more than [✓]2 pages
16 to the legislature under s. [✓]13.172 (2). The reports shall describe each of the following:

17 [✓]*a.* [✓]The expenses of the commission, utilities, and program administrators
18 contracted under sub. (2) (a) 1. in administering or participating in the programs
19 under sub. (2) (a) 1. [✓]

1 ④ ②. b. The effectiveness of the programs specified in par. (b) 1. and sub. (7) in
2 reducing demand for electricity and increasing the use of renewable resources owned
3 by customers or members.

4 ④ ③. c. The results of audits under par. (d).

5 ④ ④. d. Any other information required by the commission.

6 (f) *Rules.* The commission shall promulgate rules to establish all of the
7 following:

8 1. Procedures for energy utilities to collectively contract with program
9 administrators for administration of statewide programs under sub. (2) (a) 1.

10 2. Procedures and criteria for commission review and approval of contracts for
11 administration of statewide programs under sub. (2) (a) 1., including criteria for the
12 selection of program administrators under sub. (2) (a) 1.

13 3. Procedures and criteria for commission review and approval of
14 utility-administered programs under sub. (2) (b) 1. and 2. and requests under sub.
15 (2) (b) 3.

16 4. Minimum requirements for energy efficiency and renewable resource
17 programs under sub. (2) (a) 1. and (b) 1. and 2.

18 (4) DISCRIMINATION PROHIBITED; COMPETITION. (a) In implementing programs
19 under sub. (2) (a) 1. or (b) 1. or 2., including the awarding of grants or contracts, an
20 energy utility or utility affiliate, a person who contracts with the utilities under sub.
21 (2) (a) 1., or a person who subcontracts with such a person:

22 1. May not discriminate against an energy utility or its affiliate or a wholesale
23 supplier or its affiliate solely on the basis of its status as an energy utility or its
24 affiliate or wholesale supplier or its affiliate.

1 2. Shall provide services to utility customers on a non-discriminatory basis and
2 subject to a customer's choice.

3 (b) An energy utility that provides financing under an energy efficiency
4 program under sub. (2) (b) 1. or 2. for installation, by a customer, of energy efficiency
5 processes, equipment, or appliances, or an affiliate of such a utility, may not sell to
6 or install for the customer those processes, equipment, appliances, or related
7 materials. The customer shall acquire the installation of the processes, equipment,
8 appliances, or related materials from an independent contractor of the customer's
9 choice.

****NOTE: Is it okay to limit the above to energy efficiency processes, and not also
refer to renewable resources?

10 (5) COST RECOVERY; EQUITABLE DISTRIBUTION. (a) The commission shall ensure
11 in rate-making orders that an energy utility recovers from its ratepayers the
12 amounts the energy utility is required to spend under sub. (3) (b) 3. The commission
13 may prescribe the accounting treatment of energy utility expenditures, including the
14 use of any escrow accounting.

15 (b) The commission shall ensure that the cost of energy efficiency and
16 renewable resource programs is equitably divided among energy utilities and
17 customer classes so that similarly situated ratepayers contribute equivalent
18 amounts for the programs.

19 (c) The commission shall ensure that customers throughout the state have an
20 equivalent opportunity to receive the benefits of the programs under sub. (2) (a) 1.
21 and (b) 1. The commission shall ensure that statewide programs are designed to
22 ensure that retail customers in areas not served by programs under sub. (2) (b) 1.

1 receive equivalent opportunities as those in areas served by programs under sub. (2)

2 (b) 1.

***NOTE: Is it okay to refer to programs under sub. (2) (b) 1., but not to programs under sub. (2) (b) 2. or the ordered programs referenced in sub. (2) (b) 3.?

3 (6) ENERGY UTILITY BILLS; ANNUAL STATEMENT. An energy utility shall provide
4 customers with an annual statement that describes the applicable programs
5 specified in sub. (3) (b) 1. and presents cost and benefit information for those
6 programs.

***NOTE: Programs under sub. (2) (b) 2. are not included in the reference to sub. (3) (b) 1. As a result, they don't need to be described. Is that okay?

***NOTE: What programs are "applicable" programs? Can this be clarified?

7 (7) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES. (a) Requirement to
8 charge fees. 1. Each retail electric cooperative and municipal utility shall charge a
9 monthly fee to each customer or member in an amount that is sufficient for the retail
10 electric cooperative or municipal utility to collect an annual average of \$8 per meter.
11 A retail electric cooperative or municipal utility may determine the amount that a
12 particular class of customers or members is required to pay under this subdivision
13 and may charge different fees to different classes of customers or members.

14 2. Notwithstanding subd. 1., for the period beginning on October 29, 1999, and
15 ending on June 30, 2008, the total increase in a customer's or member's electric bills
16 that is based on the requirement to pay public benefits fees for programs other than
17 for low-income assistance under s. 16.957 (5) (a), 2003 stats., and to pay fees under
18 subd. 1., including any increase resulting from a retail electric cooperative's or
19 municipal utility's compliance with this section, may not exceed 1.5% of the total of
20 every other charge for which the member or customer is billed for that period or \$375
21 per month, whichever is less.

***NOTE: See the NOTE following the amendment of s. 16.957 (5) (am).

1 (b) *Commitment to community programs.* 1. Except as provided in subd. 2.,
2 each retail electric cooperative and municipal utility shall spend the fees that it
3 charges under par. (a) on commitment to community programs. A commitment to
4 community program shall meet the program requirements under sub. (2) (a) 2. and
5 comply with the rules promulgated under sub. (3) (f) 4.

6 2. No later than October 1, 2007, and no later than every 3rd year after that
7 date, each municipal utility or retail electric cooperative shall notify the commission
8 whether it has elected to contribute all or part of the fees that it charges under par.
9 (a) to statewide programs established under sub. (2) (a) 1. in each fiscal year of the
10 3-year period for which it has made the election. A municipal utility or retail electric
11 cooperative that makes an election under this subdivision shall spend that portion
12 of the fees that it charges under par. (a) that it does not contribute to statewide
13 programs under sub. (2) (a) 1. on commitment to community programs.

****NOTE: I changed 2006 to 2007.

****NOTE: The above allows a municipal utility or retail electric cooperative to spend *all or part* of the fees on its own non-low-income commitment to community programs. However, proposed s. 16.957 (5) (b) requires spending *all or none* of the low-income assistance fees on low-income commitment to community programs. Is that okay?

14 (c) *Wholesale supplier credit.* If a wholesale supplier has established an energy
15 efficiency or load management program, a municipal utility or retail electric
16 cooperative that is a customer or member of the wholesale supplier may include an
17 amount equal to the product of the municipal utility's or retail electric cooperative's
18 wholesale supply percentage and the amount that the wholesale supplier has spent
19 on energy efficiency or load management programs in a fiscal year in calculating the
20 amount that the municipal utility or retail electric cooperative has spent on
21 commitment to community programs under par. (b).

1 (d) *Joint programs.* Municipal utilities or retail electric cooperatives may
2 establish joint commitment to community programs, except that each municipal
3 utility or retail electric cooperative that participates in a joint program shall comply
4 with the spending requirements under par. (b).

5 (e) *Reports.* 1. For each fiscal year, each municipal utility and retail electric
6 cooperative that spends any portion of the fee that it charges under par. (a) for
7 commitment to community programs under par. (b) shall provide for an independent
8 audit of its programs and submit a report to the commission that describes all of the
9 following:

10 a. An accounting of fees charged to customers or members under par. (a) in the
11 fiscal year and expenditures on commitment to community programs under par. (b),
12 including any amounts included in the municipal utility's or retail electric
13 cooperative's calculations under par. (c).

14 b. A description of commitment to community programs established by the
15 municipal utility or retail electric cooperative in the fiscal year.

16 c. The effectiveness of the commitment to community programs in reducing
17 demand for electricity by customers or members.

18 d. The results of audits under this subdivision.

19 e. Any other information required by the commission.

20 2. The commission shall maintain reports filed under subd. 1. for at least
21 years.

22 (8) COMPLIANCE. An energy utility that spends the full amount determined for
23 it under sub. (3) (b) 3. in any year is considered to have satisfied its requirements
24 under this section for energy efficiency and renewable resource programs for that
25 year.

1 **SECTION 52.** 285.48 (4) (a) of the statutes is amended to read:

2 285.48 (4) (a) The use of renewable energy, including renewable energy that
3 is provided by electric providers for the purpose of complying with the requirements
4 of s. 196.378 (2) (a), or renewable energy that is used under programs specified in s.
5 ~~196.374 (2) (d) that are funded by expenditures~~ under s. 196.374 (3).

History: 1999 a. 9, 75.

****NOTE: The reference to s. 196.374 probably needs more attention. Let me know what you think.

6 **SECTION 53.** 285.48 (4) (b) of the statutes is amended to read:

7 285.48 (4) (b) The implementation of low-income weatherization and energy
8 conservation measures, including programs established under s. 16.957 (2) (a) or (b)
9 or programs ~~specified in s. 196.374 (2) (a) or (b) that are funded by expenditures~~
10 under s. 196.374 (3).

History: 1999 a. 9, 75.

****NOTE: See the NOTE above regarding the reference to s. 196.374.

11 **SECTION 54. Nonstatutory provisions.**

12 (1) INITIAL CONTRACTS. To promote administrative efficiency and build on
13 existing, successful programs, the public service commission shall direct energy
14 utilities, as defined in section 196.374 (1) (e) of the statutes, as ~~created~~ ^{affected} by this act,
15 to negotiate initial contracts under section 196.374 (2) (a) 1. of the statutes, as
16 ~~created~~ ^{affected} by this act, with the holders of current contracts under section 16.957 (3) (b),
17 2003 stats., to the extent that the programs administered by those contract holders
18 are functioning effectively and accomplishing most or all of the goals set for them.

19 (2) INITIAL FUNDING LEVEL. In its first proceeding under section 196.374 (3) (b)
20 of the statutes, as ~~created~~ ^{affected} by this act, the public service commission shall establish
21 a total level of funding under section 197.374 (3) (b) 2. of the statutes, as ~~created~~ ^{affected} by
22 this act, that is not less than \$75 ^{5,000,000} million nor more than \$121 ^{million} million, except that the

1 public service commission may submit to the joint committee on finance a proposed
2 total level of funding that is less than \$75^{000,000}~~million~~ or more than \$121~~million~~. If the
3 cochairpersons of the committee do not notify the public service commission within
4 10 working days after the public service commission submits such a proposal that the
5 committee has scheduled a meeting to review the proposal, the public service
6 commission may establish the funding level specified in the proposal. If, within 10
7 working days after the public service commission submits a proposal, the
8 cochairpersons of the committee notify the public service commission that the
9 committee has scheduled a meeting to review the proposal, the public service
10 commission may establish an initial funding level only upon the approval of the
11 committee.

12 **SECTION 55. Effective date.**

13 (1) This act takes effect on July 1, 2007.

14 (END)

d-note
↓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4303/P2dn

MDK:..ch

Jld

Sen. Cowles:

This "/P2" version is the first version of the draft for your review. (The "/P1" version was prepared for the LRB's internal use.)

Please see the NOTES included in the text. Also, are the references in s. 16.957 (1) (o) 2. and (2) (a) 2. to spending under s. 196.374 on low-income programs still valid? If not, these provisions can be repealed.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4303/P2dn
MDK:jld:rs

January 23, 2006

Sen. Cowles:

This "/P2" version is the first version of the draft for your review. (The "/P1" version was prepared for the LRB's internal use.)

Please see the NOTES included in the text. Also, are the references in s. 16.957 (1) (o) 2. and (2) (a) 2. to spending under s. 196.374 on low-income programs still valid? If not, these provisions can be repealed.

Mark D. Kunkel
Senior Legislative Attorney
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Kunkel, Mark

From: Stolzenberg, John
Sent: Friday, January 27, 2006 12:25 PM
To: Kunkel, Mark
Cc: Stuart, Todd; Lovell, David
Subject: CHANGES TO LRB-4303/P2

Attachments: 27lrb4303_jes

Mark,

Here are changes to LRB-4303/P2 that we have identified to date. David and I are still working on some other changes to this draft, including the setting of the funding level for statewide energy efficiency and renewable resource programs and caps on commercial and industrial customer payments for these programs.

John



27lrb4303_jes.doc
(35 KB)

John Stolzenberg
Legislative Council
266-2988

CHANGES TO LRB-4303/P2

- ✓ 1. Page 2, lines 12 to 14: delete the second sentence in subd. 1m. to parallel the treatment of sub. (1) (o) 3.
- ✓ 2. Page 3, line 3 (note): do not repeal s. 16.957 (2) (a) (intro); retain the Council's role on low-income assistance programs.
- ✓ 3. Page 5, line 10: change the title of the subdivision to better reflect the content of this subdivision? For example, amend the title to be "low-income funding from fee."
- ✓ 4. Page 5, line 22: do not repeal s. 16.957 (4) (c) 1. c. Instead, amend this subpar. as follows: "c. The total amount spent on programs ~~or contributed to the commission~~ by utilities under s. 196.374 (3), 2003 Stats., for that fiscal year for low-income assistance." Similarly, amend s. 16.957 (2) (a) 2. by inserting ", 2003 Stats." after "196.374." Should the reference to "s. 196.374" in s. 16.957 (1) (o) 2. also be amended to include the year of the statutes, given the reference to "fiscal year 1997-98" in s. 16.957 (1) (o) (intro.)? *YES*
- ✓ 5. Page 6, line 5 (note): added references are ok.
- ✓ 6. Page 7, line 1 (note): added references are ok.
- ✓ 7. Page 7, lines 5 and 15 (notes): changes identified in notes are ok.
- ✓ 8. Page 9, line 13 (note): do not repeal the program under s. 16.958.
- ✓ 9. Page 12, line 13: delete "advance plan," as the statutes no longer provide for this plan.
- ✓ 10. Page 12, lines 17 and 23 and page 13, lines 4 and 10: insert "public" before "utility" to use a defined term in these provisions.
- ✓ 11. Page 12, lines 23 and 24: delete "for energy efficiency programs" since s. 196.374 also includes requirements relating to renewable resources.
- ✓ 12. Page 13, line 3 (note): use the definition of "renewable resources" in proposed s. 196.374 (1) (j) instead of the definition referenced on page 13, line 2.
- ✓ 13. Page 13, line 13: insert "acquire," before "construct" to parallel text on page 12, lines 17 and 18.
- ✓ 14. Page 13, line 17 (note): the proposed titles in SECS. 45 to 50 are ok.
- ✓ 15. Page 14, lines 9 and 18 (notes): the definitions of "agricultural producer" and "municipality utility" are ok. A municipal utility is not an investor-owned utility.
- ✓ 16. Page 14, line 20: delete "wholesale" and "as defined in s. 16.957 (1) (b)" as a retail electric cooperative may conduct a load management program under its commitment to community

See
subsequent
email

D-NOTE

program. See the definition of "commitment to community program" on page 14, lines 10 and 11. Also, add "municipal electric company, as defined in s. 66.0825 (3) (d)" to the list of entities that can conduct a load management program in this definition, since a "wholesale supplier" can include a municipal electric company.

17. Page 17, lines 7 to 11: exclude renewable resource facilities under the program components covered by subpar. b. by substituting "by increasing" for ", including programs to increase" on line 7 and by deleting the clause that begins with "and programs" on line 8 and ending with "producers" on line 11.

18. Page 17, line 11: clarify that the specified \$29 million expenditure is an annual expenditure.

19. Page 17, line 23: substitute "and" for "or."

20. Page 18, line 11 (notes): use "agricultural customer" in this provision rather than "agricultural producer" as "customer" implies a business relation with the energy utility not necessarily implied by "producer." Paragraph (b) 1. should refer only to energy efficiency and not renewable resource programs.

21. Page 19, line 2: substitute "a" for "the first" to not limit the request addressed in this sentence to the first proceeding.

22. Page 19, line 7 (notes): the subsection reorganization is ok. It is ok to single out weatherization programs.

23. Page 19, line 17 (note): add the reference to programs under sub. (2) (b) 2.

24. Page 19, line 18: clarify that the required level of total funding is to be specified on a yearly or annual basis, e.g., "required level of total funding in each year."

25. Page 19, line 20: as appropriate, clarify that the amount anticipated to be spent under ordered programs is only for energy efficiency and renewable resource programs since some of the ordered programs include load management programs. One way to do this would be to insert after "programs" on line 20 "for energy efficiency and renewable resource programs."

26. Page 20, line 2 (note): "maturation of programs" should be used as is; we do not know how to clarify this term. The preceding provisions should not reference sub. (2) (b) 2. *U*

27. Page 21, line 1: insert before "ordered" energy efficiency and renewable resource programs in."

28. Page 21, line 10 (note): address the comment in the note by inserting "or renewable resource" before "program" on page 21, line 9.

29. Page 21, lines 11, 13, and 15: delete "energy efficiency" before "program" so that these provisions will also apply to a renewable resource program.

30. Page 21, line 14 (note): "independent" should work in this context, as it is used in a similar context in current law in s. 16.957 (2) (d) 4.
31. Page 23, line 14 (note): references to "renewable resources" should be added to this provision.
32. Page 24, line 6 (note): do not add a reference to programs under sub. (2) (b) 2. or ordered programs.
33. Page 24, line 10 (note): programs under sub. (2) (b) 2. should be included in the reference on page 24, line 9. To clarify what are "applicable programs," delete "applicable" on line 8 and insert "administered or funded by the energy utility" after "1." on line 9.
34. Page 25, line 3 (note): it is ok to add the reference to public benefit fees paid under 2003 statutes.
35. Page 25, line 16 (note): the date change to 2007 is ok. To address the portion of fees, on line 11, delete "all or part of" and delete the last sentence in par. (b) 2., on lines 13 to 16. Change other provisions in the bill that refer to the portion of the fee to coincide with these changes, including deleting "any portion" on page 26, line 9.
36. Page 26, line 8: add to the reporting requirements in par. (e) language comparable to the electronic reporting requirements on page 9, lines 6 and 7.
37. Page 27, line 3: delete "for energy efficiency and renewable resource programs."
38. Page 27, lines 9 and 14 (notes): reference to s. 196.374 is ok, as is, in both of these provisions.

Compiled for: Senator Robert Cowles
By: John Stolzenberg, Legislative Council
January 27, 2006
JES:tlujal

Kunkel, Mark

From: Kunkel, Mark
Sent: Friday, January 27, 2006 5:08 PM
To: Lovell, David
Cc: Stolzenberg, John
Subject: RE: Further revisions to 196.374 -- from Senator Cowles

Dave and John:

I just talked to Todd and think I clarified my questions below. I'll call you at home this weekend if I need more help.

-- Mark

From: Kunkel, Mark
Sent: Friday, January 27, 2006 4:33 PM
To: Lovell, David
Cc: Stolzenberg, John; Stuart, Todd
Subject: RE: Further revisions to 196.374 -- from Senator Cowles

Regarding 1. a., the cap is applied on the basis of what time period? I confess that I don't understand that cap under current law, which is, for the 1999-2008 period specified, 3% of the total charge for that period or \$750 per month. I understand the 3% part of that, but not the \$750 per month part.

In any event, the cap under current law is calculated for a specified period. How does one calculate the cap requested below?

→ should be on a monthly basis - 3% or \$750

Regarding 1. b., the bill takes effect in 2007. What cap applies in that first year? Is it \$750 plus the inflation that occurred from 2005 to 2007?

No → in 2007, it's \$750, which is adjusted in subsequent years

Regarding 3., I'm confused about the relation between "not less than 1.5%" and "more than 1%". I will call you in a moment about that.

~~not less than 1.5%~~

I plan on doing this tomorrow or Sunday morning, so it can be edited first thing Monday morning. Can I call you this weekend if I have additional questions?

not less

1.5%

From: Lovell, David
Sent: Friday, January 27, 2006 4:15 PM
To: Kunkel, Mark
Cc: Stolzenberg, John; Stuart, Todd
Subject: Further revisions to 196.374 -- from Senator Cowles

Mark,

In conversations with Senator Cowles and Todd Stuart yesterday and today, John and I have been given instructions for the following additional revisions to the draft's treatment of 196.374.

1. Cap on bills: Add caps on utility bill charges, identical to the caps in current 16.957 (4) (c) 3. and (5) (am), to 196.374, with the following changes:

- Remove the 2008 sunset in current 16.957 (4) (c) 3. and (5) (am) (i.e., repeal "For the period ... 2008,")
- Adjust the \$750 (or \$375 for C-to-C programs) cap for inflation, measured by the CPI with 2005 as the base year.

2. Local gov't & ag. Initiative: Reduce the dollar amount on p. 17, l. 11 to \$25 million.

3. Program funding level: He wants to specify that:

- The PSC shall require gas and electric utilities to spend not less than 1.5% of total operating revenues for the programs

created under sub. (2) (a) 1.

b. The PSC may require gas and electric to spend more than 1% if:

i. The proposed higher level of spending is based on the list of considerations currently in the draft on p. 20, l. 3-19.

ii. The PSC submits its proposal to JFC, which approves or does not object in 10-day review period, as drafted on p. 28, l. 4-15.

To draft this part, I suggest the following:

P. 16, l. 21-22. delete those lines and substitute "in par. (b) and (X) (x) x., the commission shall require each energy utility to spend not less than one and one half percent of its annual operating revenues to fund statewide energy efficiency and renewable".

Create (X) (x) x. in an appropriate place (sub. (2) (a) 4.):

(X) (x) x. Subject to approval under subd. y., the commission may require each utility to spend more than 1% of its annual operating revenues under subd. 1. The commission shall base a level of spending greater than 1% of annual operating revenues on a consideration of all of the following:

a. Insert the list on p. 20, l. 3-19.

y. Insert the passive review language from p. 28, l. 5-15.

~~P. 17, l. 12: delete "sub. (3) (b) 2." and substitute "sub. (2) (a) 1."~~

~~P. 18, l. 5: delete "sub. (3) (b) 3." and substitute "sub. (2) (a) 1."~~

~~P. 19, l. 18 to p. 21, l. 2: delete sub. (3) (b) 2. & 3.~~

~~P. 23, l. 17: delete "sub. (3) (b) 3." and substitute "sub. (2) (a) 1."~~

~~P. 23, l. 21: delete "energy utilities and"~~

~~P. 28, l. 1-15: delete that material.~~

Additional changes

1. Replace item 10 in the previously provided list of changes with the following:

• Page 12, line 17 and page 13, line 4: before "utility" insert "investor-owned electric public".

• Page 12, line 23 and page 13, line 10: retain "utility" without any changes.

• Page 13, line 12: before "utility" insert "public".

2. Page 13, line 15: substitute "s. 1.12 (4)" for "s. 1.12 (2) to (5)" to parallel the other provisions in the draft on the energy priorities law.

3. Page 14, line 16: substitute: "energy by a customer or member of an energy utility, municipal utility, or retail electric cooperative" for "natural gas or electricity".

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537